

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

JANET SISLER

Plaintiff

v.

Civil Action No.: 2:05-0213

THE EQUITABLE VARIABLE  
LIFE INSURANCE COMPANY,  
EQUITABLE LIFE ASSURANCE  
SOCIETY OF THE UNITED STATES;  
AXA ADVISORS, LLC;  
JAMES PACK; JOSEPH SPANO, et al.

Defendants

MEMORANDUM ORDER AND OPINION

Pending before the court is the motion of defendants AXA Advisors and AXA Equitable Life Insurance Company (collectively AXA), filed April 22, 2005, seeking leave of the court to conduct jurisdictional discovery in response to the motion of plaintiff Janet Sisler to remand. AXA seeks discovery to show that the non-diverse defendants, James Pack and Joseph Spano, were fraudulently joined and whether the action against them is time-barred.

By order entered this same day in the companion case of Norma Jean Fellure v. The Equitable Variable Life Insurance Company, et al.; Civil Action No.: 2:05-0214, the court denied a

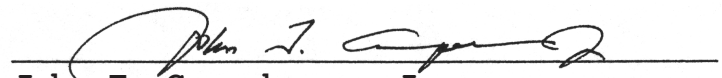
similar motion. Inasmuch as the claims of the plaintiff in this action are similarly situated to Fellure's claims in her action, the court adopts the rationale set forth in the order on the companion motion filed in Fellure.

1. The motion of defendants AXA Advisors and AXA Equitable Life Insurance Company seeking leave of the court for jurisdictional discovery be, and it hereby is, denied.

2. The defendants AXA Advisors and AXA Equitable Life Insurance Company are directed to respond to plaintiff's motion to remand by July 6, 2005, with any reply by plaintiff due by July 15, 2005.

The Clerk is directed to forward copies of this written opinion to all counsel of record.

DATED: June 21, 2005

  
John T. Copenhaver, Jr.  
United States District Judge